

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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YORDY ARAGONEZ,

Plaintiff,

-against-

CITY OF NEW YORK, P.O. KAREEM PHILLIPS,  
JOHN DOE 1, JOHN AND JANE DOE 2 through 10,  
individually and in their official capacities (the names  
John and Jane Doe being fictitious, as the true names are  
presently unknown),

Defendants.  
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**DEFENDANT CITY OF NEW  
YORK'S ANSWER TO THE  
CROSS CLAIMS OF POLICE  
OFFICER KAREEM  
PHILLIPS**

16 CV 1794 (ARR) (CLP)

Jury Trial Demanded

Defendant City of New York, by its attorney, Zachary W. Carter, Corporation Counsel of the City of New York, for its answer to co-defendant Police Officer Kareem Phillips' cross-claims against the City of New, which he pled in his answer to the complaint (hereinafter "Phillips Answer"), respectfully alleges, upon information and belief, as follows:

1. Denies the allegations set forth in paragraph "69" of the Phillips Answer.
2. Denies the allegations set forth in paragraph "70" of the Phillips Answer.
3. Denies the allegations set forth in paragraph "71" of the Phillips Answer.
4. Denies the allegations set forth in paragraph "72" of the Phillips Answer.
5. States the allegations set forth in paragraph "73" of the Phillips Answer are

legal conclusions to which no response is required.

6. Denies the allegations set forth in paragraph "74" of the Phillips Answer.

**AS AND FOR A FIRST AFFIRMATIVE DEFENSE TO THE CROSS CLAIMS:**

7. The cross-claims fail to state a claim upon which relief can be granted.

**AS AND FOR A SECOND AFFIRMATIVE DEFENSE TO THE CROSS CLAIMS:**

8. Defendant City of New York has not violated any rights, privileges or immunities under the Constitution or laws of the United States or the State of New York or any political subdivision thereof, nor has the City of New York violated any act of Congress providing for the protection of civil rights.

**AS AND FOR A THIRD AFFIRMATIVE DEFENSE TO THE CROSS CLAIMS:**

9. At all times relevant to the incident, defendant City of New York acted reasonably in the proper and lawful exercise of its discretion.

**AS AND FOR A FOURTH AFFIRMATIVE DEFENSE TO THE CROSS CLAIMS:**

10. To the extent defendant Phillips' asserts state law claims against the City of New York, such claims should be barred by the doctrine of immunity for judgmental errors in the exercise of governmental functions.

**AS AND FOR A FIFTH AFFIRMATIVE DEFENSE TO THE CROSS CLAIMS:**

11. Defendant Phillips' was determined to have been acting in violation of the rules and regulations of the New York City Police Department and/or outside the scope of his employment at the time of the incident giving rise to the instant case.

**AS AND FOR A SIXTH AFFIRMATIVE DEFENSE TO THE CROSS CLAIMS:**

12. Defendant Phillips' cross-claims against defendant City are not ripe for adjudication.

**AS AND FOR A SEVENTH AFFIRMATIVE DEFENSE TO THE CROSS CLAIMS:**

13. This Court lacks jurisdiction over defendant Phillips' cross-claims.

**AS AND FOR AN EIGHTH AFFIRMATIVE DEFENSE TO THE CROSS CLAIMS:**

14. Any injury alleged to have been sustained by plaintiff was not the proximate result of conduct on the part of defendant City of New York and resulted, in whole or in part, from the culpable, negligent and/or intervening conduct of defendant Phillips.

**AS AND FOR NINTH AFFIRMATIVE DEFENSE TO THE CROSS CLAIMS:**

15. Defendant Phillips' cross claims may be barred in part by the doctrines of res judicata and/or collateral estoppel.

**WHEREFORE,** Defendant City of New York requests judgment dismissing the cross-claims of co-defendant Police Officer Kareem Phillips, and requests such other and further relief as the Court may deem just and proper.

Dated: New York, New York  
January 3, 2017

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By:                     /S                      
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